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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,505	06/16/2006	Jason Meyer	740172-23	3159
22204 7590 09/24/2009 NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128				
EXAMINER				
CHAN, ALLEN				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
09/24/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,505

Applicant(s)

MEYER, JASON

Examiner

ALLEN CHAN

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 6/16/2006

DETAILED ACTION

In response to the Preliminary Amendment filed on June 16th, 2006, claim 3-10, 12-21, 25-27, 30-37, 39-48 and 52-54 have been amended. Claims 1-54 are currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks et al. (US PG Pub. No. 2004/0058727 A1) in view of Walker et al. (US PG Pub. No. 2003/0190943 A1).

Regarding claims 1 and 28, Marks et al. discloses a gaming machine and method of operating a gaming machine including a base game of chance having

random outcomes which include predetermined winning outcomes, wherein said machine pays winnings upon the occurrence of any of said winning outcomes (see par. [0006]-[0007]) and said machine being adapted to allocate feature qualifying attributes such that accumulation of one or more predetermined feature qualifying attributes opens a window of opportunity allowing a player to trigger a feature game at any time of their choosing whilst said window of opportunity is open (see par. [0051]-[0052]). However, Marks et al. does not explicitly disclose that the window of opportunity remains open until said player no longer holds said one or more feature qualifying attributes. Walker et al. discloses a game where bonus symbols can expire, thus closing the window of opportunity for the bonus game or feature (see par. [0026]-[0027]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gaming machine of Marks et al. to have expiring bonus symbols, as disclosed in Walker et al., such that the bonus symbols may expire upon the occurrence of certain expiration criterion, such as when the player ends the playing session (see Walker par. [0026]-[0027]).

Regarding claims 2 and 29, Walker et al. discloses that different types of feature qualifying attributes are represented by corresponding feature qualifying symbols (see fig. 10).

Regarding claims 3-5 and 30-32, Marks et al. discloses that the feature qualifying attributes are awarded at random, awarded in the event of the base game being played a predetermined number of times, and awarded during play of the base game on the occurrence of predetermined attribute awarding combinations (see par. [0050]).

Regarding claims 6 and 33, Walker et al. discloses that the accumulated feature qualifying attributes used to trigger the feature game are removed from a player's tally (see par. [0026]).

Regarding claims 7-9 and 34-36, Walker et al. discloses that the accumulated feature qualifying attributes are removed at random, removed on the occurrence of a predetermined attribute removing combination occurring during the play of the base game, and removed in the event of the base game being played a predetermined number of times (see par. [0027]-[0028]).

Regarding claims 10 and 37, Marks et al. discloses that the characteristics of the feature game are dependent on the accumulation of predetermined feature qualifying attributes (see par. [0051]).

Regarding claims 11-19 and 38-46, Marks et al. discloses various feature game characteristics including free games, win multipliers, bonus prizes, etc. (see par. [0083]).

Regarding claims 20 and 47, Marks et al. discloses varying the window of opportunity for the player (see par. [0051]).

Regarding claims 21 and 48, Marks et al. discloses feature qualifying attributes as discussed above and the gaming machine is obviously capable of setting these attributes as jackpot qualifying attributes. Jackpot and progressive jackpot games are extremely well-known in the art.

Regarding claims 22 and 49, Marks et al. discloses providing a special or bonus game which can be triggered by a player upon the accumulation of one or more predetermined jackpot qualifying attributes (see par. [0051]-[0052]).

Regarding claims 23, 24, 50 and 51, Marks et al. discloses a game which requires player interaction (see par. [0046] and [0048]).

Regarding claims 25, 26, 52 and 53, it is well known in the art that jackpot prizes can be won from stand-alone machines or networked machines.

Regarding claims 27 and 54, Marks et al. discloses a reel type game using a simulation of five adjacent wheels to present an array of randomly selected symbols in five columns and three rows (see fig. 1A and par. [0045]).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kaminkow et al. (US 2003/0190942 A1) discloses a gaming device having an accumulated award selection bonus scheme.

Seelig et al. (US 2003/0069066 A1) discloses a gaming bonus device and method of use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALLEN CHAN whose telephone number is (571)270-

5529. The examiner can normally be reached on Monday through Thursday 9:00 AM to 7:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALLEN CHAN/
Examiner, Art Unit 3714
9/22/2009

/John M Hotaling II/
Primary Examiner, Art Unit 3714